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SENATE BILL 19-011

BY SENATOR(S) Williams A. and Tate, Cooke, Priola, Fenberg, Baumgardner, Court, Crowder, Fields, Gardner, Ginal, Hill, Lee, Lundeen, Marble, Scott, Sonnenberg, Story, Todd, Woodward, Zenzinger; also REPRESENTATIVE(S) Garnett and McKean, Arndt, Hansen, Kraft-Tharp, Roberts, Singer, Soper, Titone, Gray, Bird, Bockenfeld, Buckner, Buentello, Duran, Esgar, Galindo, Humphrey, Jaquez Lewis, Kennedy, Kipp, Liston, Lontine, McCluskie, Melton, Mullica, Neville, Pelton, Ransom, Snyder, Sullivan, Van Winkle, Williams D.

CONCERNING THE CONVERSION OF CERTAIN FERMENTED MALT BEVERAGE LICENSES ISSUED UNDER THE "COLORADO BEER CODE" TO MALT LIQUOR LICENSES ISSUED UNDER THE "COLORADO LIQUOR CODE".

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **amend** 44-4-102 as follows:

44-4-102. Legislative declaration. (1) The general assembly hereby declares that it is in the public interest that fermented malt beverages shall be ~~manufactured, imported, and~~ sold AT RETAIL only by persons licensed as provided in this article 4. ~~and article 3 of this title 44.~~ The

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

general assembly further declares that it is lawful to ~~manufacture and sell~~ fermented malt beverages AT RETAIL subject to this article 4 and applicable provisions of articles 3 and 5 of this title 44.

(2) The general assembly further recognizes that fermented malt beverages and malt liquors are separate and distinct from, and have a unique regulatory history in relation to, vinous and spirituous liquors; ~~and as such require the retention of a separate and distinct regulatory framework under this article 44~~ HOWEVER, MAINTAINING A SEPARATE REGULATORY FRAMEWORK AND LICENSING STRUCTURE FOR FERMENTED MALT BEVERAGES UNDER THIS ARTICLE 4 IS NO LONGER NECESSARY EXCEPT AT THE RETAIL LEVEL. FURTHERMORE, to aid administrative efficiency, ~~however~~, article 3 of this title 44 applies to the regulation of fermented malt beverages, except when otherwise expressly provided for in this ~~article 44~~ ARTICLE 4.

SECTION 2. In Colorado Revised Statutes, 44-4-103, **amend** (1)(a) and (2); and **repeal** (5) as follows:

44-4-103. Definitions. Definitions applicable to this article 4 also appear in article 3 of this title 44. As used in this article 4, unless the context otherwise requires:

(1) (a) "Fermented malt beverage" means ~~beer and any other beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any similar product or any combination thereof in water containing not less than one-half of one percent alcohol by volume~~ MALT LIQUORS, WHEN PURCHASED BY A FERMENTED MALT BEVERAGE RETAILER FROM A WHOLESALER LICENSED PURSUANT TO ARTICLE 3 OF THIS TITLE 44; OR WHEN SOLD BY A FERMENTED MALT BEVERAGE RETAILER TO CONSUMERS OR TO PERSONS LICENSED UNDER SECTION 44-3-411, 44-3-413, 44-3-414, 44-3-416 TO 44-3-420, 44-3-422, 44-3-426, OR 44-3-428.

(2) "License" means a grant to a licensee to ~~manufacture or sell~~ fermented malt beverages AT RETAIL as provided by this article 4.

(5) ~~"Sell at wholesale" means selling to any other than the intended consumer of fermented malt beverages. "Sell at wholesale" shall not be construed to prevent a brewer or wholesale beer dealer from selling fermented malt beverages to the intended consumer thereof or to prevent a licensed manufacturer or importer from selling such beverages to a licensed~~

wholesaler.

SECTION 3. In Colorado Revised Statutes, 44-4-104, **amend** (1) introductory portion, (1)(c)(I), and (4); **repeal** (1)(a), (1)(b), (1)(d), and (3); and **add** (1)(e) as follows:

44-4-104. Licenses - state license fees - requirements - repeal.

(1) The licenses to be granted and issued by the state licensing authority pursuant to this article 4 for the ~~manufacture, importation, and~~ RETAIL sale of fermented malt beverages are as follows:

(a) ~~(I) A manufacturer's license shall be granted and issued to any person, partnership, association, organization, or corporation qualifying under section 44-3-301 and not prohibited from licensure under section 44-3-307 to manufacture and sell fermented malt beverages upon the payment of an annual license fee of one hundred fifty dollars to the state licensing authority. A manufacturer so licensed may have additional warehouses in the state upon payment of the wholesaler's license fee as provided in this section.~~

~~(II) A manufacturer that has received a license pursuant to this subsection (1)(a) shall be authorized to manufacture fermented malt beverages upon an alternating proprietor licensed premises, as defined in section 44-3-103, as approved by the state licensing authority, but the manufacturer shall not conduct retail sales of fermented malt beverages from an area licensed or defined as an alternating proprietor licensed premises.~~

(b) ~~A wholesaler's license shall be granted and issued to any person, partnership, association, organization, or corporation qualifying under section 44-3-301 and not prohibited from licensure under section 44-3-307 to sell fermented malt beverages upon the payment of an annual license fee of one hundred fifty dollars to the state licensing authority. Each wholesaler's license application shall designate the territory within which the licensee may sell the designated products of any manufacturer, as agreed upon by the licensee and the manufacturer of such products.~~

(c) (I) (A) ~~On and after June 4, 2018,~~ A retailer's license shall be granted and issued to any person, partnership, association, organization, or corporation qualifying under section 44-3-301 and not prohibited from

licensure under section 44-3-307 to sell at retail fermented malt beverages either for consumption off the licensed premises or on the licensed premises, but not for consumption on and off the licensed premises, upon paying an annual license fee of seventy-five dollars to the state licensing authority.

(B) A PERSON LICENSED PURSUANT TO THIS SUBSECTION (1)(c) TO SELL FERMENTED MALT BEVERAGES AT RETAIL SHALL PURCHASE THE FERMENTED MALT BEVERAGES ONLY FROM A WHOLESALER LICENSED PURSUANT TO ARTICLE 3 OF THIS TITLE 44.

~~(d) (I) A nonresident manufacturer's license shall be granted and issued to any person manufacturing fermented malt beverages outside of the state of Colorado for the sole purposes listed in subsection (1)(d)(III) of this section, upon the payment of an annual license fee of one hundred fifty dollars to the state licensing authority.~~

~~(H) An importer's license shall be granted and issued to any person importing fermented malt beverages into this state for the sole purposes listed in subsection (1)(d)(III) of this section, upon the payment of an annual license fee of one hundred fifty dollars to the state licensing authority.~~

~~(HH) The licenses referred to in subsections (1)(d)(I) and (1)(d)(H) of this section shall be issued for the following purposes only:~~

~~(A) To import and sell fermented malt beverages within this state to a person licensed as a wholesaler pursuant to this section;~~

~~(B) To maintain stocks of fermented malt beverages and to operate fermented malt beverages warehouses by procuring a wholesaler's license as provided in this section;~~

~~(C) To solicit orders from retail licensees and fill such orders through licensed wholesalers.~~

~~(IV) Each applicant for a license as a manufacturer, nonresident manufacturer, or importer of fermented malt beverages shall enter into a written contract with each wholesaler with which the applicant intends to do business, which contract shall designate the territory within which the~~

~~product of such applicant shall be sold by the respective wholesaler. The contract shall be submitted to the state licensing authority with an application, and the applicant, if licensed, shall have a continuing duty to submit any subsequent revisions, amendments, or superseding contracts to the state licensing authority.~~

~~(V) A manufacturer, nonresident manufacturer, or importer licensed to sell fermented malt beverages under this article 4 shall not contract with more than one wholesaler to sell the products of such manufacturer, nonresident manufacturer, or importer in the same territory.~~

(e) (I) NOTWITHSTANDING ANY LAW TO THE CONTRARY, BEGINNING ON THE EFFECTIVE DATE OF THIS SUBSECTION (1)(e), THE STATE LICENSING AUTHORITY SHALL NOT ISSUE OR RENEW ANY LICENSES UNDER THIS SECTION EXCEPT FOR LICENSES AUTHORIZED UNDER SUBSECTION (1)(c) OF THIS SECTION.

(II) LICENSES ISSUED BY THE STATE LICENSING AUTHORITY UNDER SUBSECTION (1)(a), (1)(b), OR (1)(d) OF THIS SECTION IN EFFECT ON THE EFFECTIVE DATE OF THIS SUBSECTION (1)(e) IMMEDIATELY CONVERT, ON THE EFFECTIVE DATE OF THIS SUBSECTION (1)(e), WITHOUT ANY FURTHER ACT BY THE STATE LICENSING AUTHORITY OR THE LICENSEE, AS FOLLOWS:

(A) A MANUFACTURER'S LICENSE THAT WAS ISSUED UNDER SUBSECTION (1)(a) OF THIS SECTION, AS IT EXISTED BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (1)(e), CONVERTS TO A MANUFACTURER'S LICENSE ISSUED PURSUANT TO SECTION 44-3-402 FOR THE MANUFACTURE OF MALT LIQUORS;

(B) A WHOLESALER'S LICENSE THAT WAS ISSUED UNDER SUBSECTION (1)(b) OF THIS SECTION, AS IT EXISTED BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (1)(e), CONVERTS TO A WHOLESALER'S BEER LICENSE ISSUED PURSUANT TO SECTION 44-3-407 (1)(b);

(C) A NONRESIDENT MANUFACTURER'S LICENSE THAT WAS ISSUED UNDER SUBSECTION (1)(d)(I) OF THIS SECTION, AS IT EXISTED BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (1)(e), CONVERTS TO A NONRESIDENT MANUFACTURER'S LICENSE ISSUED PURSUANT TO SECTION 44-3-406 (1); AND

(D) AN IMPORTER'S LICENSE THAT WAS ISSUED UNDER SUBSECTION

(1)(d)(II) OF THIS SECTION, AS IT EXISTED BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (1)(e), CONVERTS TO A MALT LIQUOR IMPORTER'S LICENSE ISSUED PURSUANT TO SECTION 44-3-406 (2).

(III) THE CONVERSION OF A LICENSE ISSUED UNDER SUBSECTION (1)(a), (1)(b), OR (1)(d) OF THIS SECTION TO A LICENSE ISSUED UNDER ARTICLE 3 OF THIS TITLE 44 PURSUANT TO SUBSECTION (1)(e)(II) OF THIS SECTION IS A CONTINUATION OF THE PRIOR LICENSE ISSUED PURSUANT TO THIS ARTICLE 4 AND DOES NOT AFFECT:

(A) ANY PRIOR DISCIPLINE, LIMITATION, OR CONDITION IMPOSED BY THE STATE LICENSING AUTHORITY ON A LICENSEE;

(B) THE DEADLINE FOR RENEWAL OF A LICENSE; OR

(C) ANY PENDING OR FUTURE INVESTIGATION OR ADMINISTRATIVE PROCEEDING.

~~(3) The manufacturer's or wholesaler's licenses provided by this article 4 shall permit the licensee to sell fermented malt beverages in sealed containers to retailers and consumers, thereof, as long as the beverages have been unloaded and placed in the physical possession of a licensed wholesaler at its licensed premises in this state and inventoried for purposes of tax collection before being delivered to any such retailer or consumer. Wholesalers of fermented malt beverages receiving products to be held as required by this subsection (3) shall be liable for the payment of any tax due on the products under section 44-3-503.~~

~~(4) It is unlawful for any manufacturer or wholesaler or any person, partnership, association, organization, or corporation interested financially in or with any of the licensees described in this article 4 to be interested financially, directly or indirectly, in the business of any retail licensee licensed pursuant to this article 4, or for any retail licensee under this article 4 to be interested financially, directly or indirectly, in the business of any manufacturer or wholesaler or any person, partnership, association, organization, or corporation interested in or with any of the manufacturers or wholesalers licensed pursuant to this article 4~~ ARTICLE 3 OF THIS TITLE 44.

SECTION 4. In Colorado Revised Statutes, 44-3-103, **amend** (3), (5), (6), (30), and (40)(b) as follows:

44-3-103. Definitions. As used in this article 3 and article 4 of this title 44, unless the context otherwise requires:

(3) "Alternating proprietor licensed premises" means a distinct and definite area, as specified in an alternating use of premises application, that is owned by or in possession of a person licensed pursuant to section 44-3-402, 44-3-403, OR 44-3-417 ~~or 44-4-104 (1)(a)~~ and within which ~~such~~ THE licensee and other persons licensed pursuant to section 44-3-402, 44-3-403, OR 44-3-417 ~~or 44-4-104 (1)(a)~~ are authorized to manufacture and store vinous liquors OR malt liquors ~~or fermented malt beverages~~ in accordance with ~~the provisions of this article 3. or article 4 of this title 44,~~ as applicable.

(5) "Brew pub" means a retail establishment that manufactures not more than one million eight hundred sixty thousand gallons of malt liquor ~~and fermented malt beverages~~ on its licensed premises or licensed alternating proprietor licensed premises, combined, each calendar year.

(6) "Brewery" means any establishment where malt liquors ~~or fermented malt beverages~~ are manufactured, except brew pubs licensed under this article 3.

(30) (a) "Malt liquors" includes beer and means any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination thereof, in water containing not less than one-half of one percent alcohol by volume.

(b) FOR PURPOSES OF LICENSES DESCRIBED IN SECTION 44-3-401 (1)(j) TO (1)(p), (1)(s), (1)(t), (1)(v), AND (1)(w), "MALT LIQUORS" INCLUDES FERMENTED MALT BEVERAGES WHEN PURCHASED FROM A RETAILER LICENSED PURSUANT TO SECTION 44-4-104 (1)(c).

(40) "Qualified employee" means an individual who:

(b) Is engaged in manufacturing and tasting ~~fermented malt beverages~~ or malt liquors for teaching or research purposes; and

SECTION 5. In Colorado Revised Statutes, 44-3-106, **amend** (2)(a), (2)(b), and (2)(c) as follows:

44-3-106. Exemptions. (2) (a) Notwithstanding any provision of this article 3 ~~or article 4 of this title 44~~ to the contrary, when permitted by federal law and rules and regulations promulgated pursuant thereto, an adult may produce, for personal use and not for sale, an amount of ~~fermented malt beverage or malt~~ or vinous liquor equal to the amount that is exempt from the federal excise tax on the alcohol beverage when produced by an adult for personal use and not for sale.

(b) The production of ~~fermented malt beverages or malt~~ or vinous liquors under the circumstances set forth in this subsection (2) shall be in strict conformity with federal law and rules and regulations issued pursuant thereto.

(c) ~~Fermented malt beverages or Malt~~ or vinous liquors produced pursuant to ~~the provisions of~~ this subsection (2) shall be exempt from any tax imposed by this article 3, and the producer shall not be required to obtain any license provided by this article 3. ~~or article 4 of this title 44.~~

SECTION 6. In Colorado Revised Statutes, 44-3-301, **amend** (3)(a) as follows:

44-3-301. Licensing in general. (3) (a) Each license issued under this article 3 and article 4 of this title 44 is separate and distinct. It is unlawful for any person to exercise any of the privileges granted under any license other than ~~that which~~ THE LICENSE the person holds or for any licensee to allow any other person to exercise ~~such~~ THE privileges granted under the licensee's license, except as provided in section 44-3-402 (3), 44-3-403 (2)(a), 44-3-404, OR 44-3-417 (1)(b). ~~or section 44-4-104 (1)(a).~~ A separate license must be issued for each specific business or business entity and each geographic location, and in the license the particular alcohol beverages the applicant is authorized to manufacture or sell must be named and described. For purposes of this section, a resort complex with common ownership, a campus liquor complex, a hotel and restaurant licensee with optional premises, an optional premises licensee for optional premises located on an outdoor sports and recreational facility, and a wine festival at which more than one licensee participates pursuant to a wine festival permit is considered a single business and location.

SECTION 7. In Colorado Revised Statutes, 44-3-308, **amend** (1)(a)(I) introductory portion, (1)(a)(II)(B), and (5)(b)(II) as follows:

44-3-308. Unlawful financial assistance. (1) (a) (I) It is unlawful for any person licensed pursuant to this article 3 ~~or article 4 of this title 44~~ as a manufacturer, limited winery, wholesaler, or importer, or any person, partnership, association, organization, or corporation interested financially in or with any of said licensees, to furnish, supply, or loan, in any manner, directly or indirectly, to any person licensed to sell at retail pursuant to this article 3 or article 4 or 5 of this title 44:

(II) This subsection (1) does not:

(B) Prevent a representative, employee, or agent of a person licensed under this article 3 ~~or article 4 of this title 44~~ as a manufacturer, limited winery, wholesaler, or importer from pouring or serving the licensee's alcohol beverage products as part of a tasting being conducted on the licensed premises of a person licensed under this article 3 to sell alcohol beverages at retail for off-premises consumption, and pouring or serving the licensee's alcohol beverages does not constitute labor provided by a person licensed under this article 3 ~~or article 4 of this title 44~~ as a manufacturer, limited winery, wholesaler, or importer to a person licensed under this article 3 to sell alcohol beverages at retail.

(5) (b) This subsection (5) does not:

(II) Prevent a representative, employee, or agent of a person licensed under this article 3 ~~or article 4 of this title 44~~ as a manufacturer, limited winery, wholesaler, or importer from pouring or serving the licensee's alcohol beverage products as part of a tasting being conducted on the licensed premises of a person licensed under this article 3 to sell alcohol beverages at retail for off-premises consumption, and pouring or serving the licensee's alcohol beverages does not constitute labor provided by a person licensed under this article 3 ~~or article 4 of this title 44~~ as a manufacturer, limited winery, wholesaler, or importer to a person licensed under this article 3 to sell alcohol beverages at retail.

SECTION 8. In Colorado Revised Statutes, 44-3-402, **amend** (3)(c) and (5)(a) as follows:

44-3-402. Manufacturer's license. (3) (c) Any winery or brewery that holds a wholesaler's license pursuant to section 44-3-407 ~~or 44-4-104~~ ~~(1)(b)~~ may engage in the wholesale sale of alcohol beverages that the

licensee manufactured at an alternating proprietor licensed premises from both its licensed premises and the alternating proprietor licensed premises where the alcohol beverages were manufactured.

(5) (a) It is unlawful for a manufacturer licensed under this article 3 or any person, partnership, association, organization, or corporation interested financially in or with a licensed manufacturer to be interested financially, directly or indirectly, in the business of any person licensed to sell at retail pursuant to this article 3 OR ARTICLE 4 OF THIS TITLE 44.

SECTION 9. In Colorado Revised Statutes, 44-3-406, **amend** (3)(c) and (6) as follows:

44-3-406. Nonresident manufacturers and importers of malt liquor. (3) The licenses referred to in subsections (1) and (2) of this section shall be issued for the following purposes only:

(c) To solicit orders from retail licensees LICENSED UNDER THIS ARTICLE 3 OR ARTICLE 4 OF THIS TITLE 44 and fill ~~such~~ THE orders through malt liquor wholesalers.

(6) It is unlawful for a nonresident manufacturer licensed under this article 3, or any person, partnership, association, organization, or corporation interested financially in or with ~~such a~~ THE licensee, to be interested financially, directly or indirectly, in the business of any person licensed to sell at retail pursuant to this article 3 OR ARTICLE 4 OF THIS TITLE 44.

SECTION 10. In Colorado Revised Statutes, 44-3-407, **amend** (1)(b)(I) introductory portion, (1)(b)(I)(B), (1)(d), (2), and (4)(a) as follows:

44-3-407. Wholesaler's license - discrimination in wholesale sales prohibited. (1) (b) (I) A wholesaler's beer license shall be issued to persons ~~selling~~ THAT SELL malt liquors at wholesale ~~who~~ TO RETAILERS LICENSED UNDER THIS ARTICLE 3 OR ARTICLE 4 OF THIS TITLE 44 AND THAT designate to the state licensing authority on their application the territory within which the licensee may sell the designated products of any brewer as agreed upon by the licensee and the brewer of ~~such~~ THE products for the following purposes only:

(B) To take orders for malt liquors at any place within the territory designated on the license application and deliver malt liquors on orders previously taken to any place within the designated geographical territory, if the licensee has procured a wholesaler's beer license and the place where orders are taken and delivered is a place regularly licensed TO SELL AT RETAIL FOR CONSUMPTION ON OR OFF THE LICENSED PREMISES pursuant to ~~the provisions of this article 3 OR ARTICLE 4 OF THIS TITLE 44.~~

(d) All malt, vinous, and spirituous liquors purchased by any licensee under this section, and all malt, vinous, and spirituous liquors shipped into this state by or to any such licensee, shall be placed in the physical possession of the licensee at the licensee's warehouse facilities prior to delivery to persons holding licenses ~~under~~ PURSUANT TO this article 3 OR ARTICLE 4 OF THIS TITLE 44.

(2) It is unlawful for any licensed wholesaler or any person, partnership, association, organization, or corporation interested financially in or with a licensed wholesaler to be interested financially, directly or indirectly, in the business of any person licensed to sell at retail pursuant to this article 3 OR ARTICLE 4 OF THIS TITLE 44.

(4) (a) A wholesaler shall make available to all ~~licensed~~ retailers LICENSED PURSUANT TO THIS ARTICLE 3 AND ARTICLE 4 OF THIS TITLE 44 in this state without discrimination all malt, vinous, and spirituous liquors offered by the wholesaler for sale at wholesale. A wholesaler shall use its best efforts to make available to licensed retailers each brand of alcohol beverage that the wholesaler has been authorized to distribute.

SECTION 11. In Colorado Revised Statutes, 44-3-408, **amend** (9)(c) and (9)(g) as follows:

44-3-408. Termination of wholesalers - remedies - definitions.

(9) As used in this section:

(c) "Products" means ~~fermented malt beverages and~~ malt liquors.

(g) "Wholesaler" means the holder of a Colorado wholesaler's beer license. ~~or wholesaler's license to sell fermented malt beverages.~~

SECTION 12. In Colorado Revised Statutes, 44-3-411, **amend** (1)

and (2) as follows:

44-3-411. Beer and wine license. (1) A beer and wine license shall be issued to persons selling malt and vinous liquors ~~and fermented malt beverages~~ for consumption on the premises. Beer and wine licensees shall have sandwiches and light snacks available for consumption on the premises during business hours, but need not have meals available for consumption.

(2) (a) Every person selling malt and vinous liquors ~~and fermented malt beverages~~ as provided in this section shall purchase malt and vinous liquors ~~and fermented malt beverages~~ only from a wholesaler licensed pursuant to this article 3; ~~or article 4 of this title 44;~~ except that, during a calendar year, any person selling malt and vinous liquors ~~and fermented malt beverages~~ as provided in this section may purchase not more than two thousand dollars' worth of

~~(F) malt and vinous liquors from a retailer~~ RETAILERS licensed pursuant to ~~section~~ SECTIONS 44-3-409, ~~or~~ 44-3-410, and

~~(H) Fermented malt beverages from a retailer licensed pursuant to section~~ 44-4-104 (1)(c).

(b) A beer and wine licensee shall retain evidence of each purchase of malt and vinous liquors from a retailer licensed pursuant to section 44-3-409, ~~or~~ 44-3-410, ~~and each purchase of fermented malt beverages from a retailer licensed pursuant to section~~ OR 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the malt or vinous liquor ~~or fermented malt beverages~~ purchased, and the price paid for the purchase. The beer and wine licensee shall retain the receipt and shall make it available to the state and local licensing authorities at all times during business hours.

SECTION 13. In Colorado Revised Statutes, 44-3-413, **amend** (7) as follows:

44-3-413. Hotel and restaurant license - definitions - rules. (7) (a) Except as provided in subsection (7)(b) of this section, every person selling alcohol beverages as provided in this section shall purchase alcohol beverages only from a wholesaler licensed pursuant to this article 3. ~~or~~

~~article 4 of this title 44.~~

(b) (I) During a calendar year, a person selling alcohol beverages as provided in this section may purchase not more than two thousand dollars' worth of

~~(A) malt, vinous, and spirituous liquors from a retailer~~ RETAILERS licensed pursuant to ~~section~~ SECTIONS 44-3-409, ~~or~~ 44-3-410, and

~~(B) Fermented malt beverages from a retailer licensed pursuant to section 44-4-104 (1)(c).~~

(II) A hotel and restaurant licensee shall retain evidence of each purchase of malt, vinous, or spirituous liquors from a retailer licensed pursuant to section 44-3-409, ~~or~~ 44-3-410, ~~and each purchase of fermented malt beverages from a retailer licensed pursuant to section~~ OR 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The licensee shall retain the receipt and make it available to the state and local licensing authorities at all times during business hours.

SECTION 14. In Colorado Revised Statutes, 44-3-414, **amend** (2) as follows:

44-3-414. Tavern license. (2) (a) Every person selling alcohol beverages as provided in this section shall purchase alcohol beverages only from a wholesaler licensed pursuant to this article 3; ~~or article 4 of this title 44;~~ except that, during a calendar year, a person selling alcohol beverages as provided in this section may purchase not more than two thousand dollars' worth of

~~(F) malt, vinous, and spirituous liquors from a retailer~~ RETAILERS licensed pursuant to ~~section~~ SECTIONS 44-3-409, ~~or~~ 44-3-410, and

~~(H) Fermented malt beverages from a retailer licensed pursuant to section 44-4-104 (1)(c).~~

(b) A tavern licensee shall retain evidence of each purchase of malt, vinous, or spirituous liquors from a retailer licensed pursuant to section

44-3-409, or 44-3-410, and each purchase of fermented malt beverages from a retailer licensed pursuant to section OR 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The tavern licensee shall retain the receipt and make it available to the state and local licensing authorities at all times during business hours.

SECTION 15. In Colorado Revised Statutes, 44-3-416, **amend** (2) as follows:

44-3-416. Retail gaming tavern license. (2) (a) Every person selling alcohol beverages as described in this section shall purchase the alcohol beverages only from a wholesaler licensed pursuant to this article 3; ~~or article 4 of this title 44;~~ except that, during a calendar year, a person selling alcohol beverages as provided in this section may purchase not more than two thousand dollars' worth of

(~~H~~) malt, vinous, or spirituous liquors from a ~~retailer~~ RETAILERS licensed pursuant to ~~section~~ SECTIONS 44-3-409, or 44-3-410, and

(~~H~~) ~~Fermented malt beverages from a retailer licensed pursuant to section 44-4-104 (1)(c).~~

(b) A retail gaming tavern licensee shall retain evidence of each purchase of malt, vinous, or spirituous liquors from a retailer licensed pursuant to section 44-3-409, or 44-3-410, and ~~each purchase of fermented malt beverages from a retailer licensed pursuant to section OR 44-4-104 (1)(c),~~ in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The licensee shall retain the receipt and make it available to the state and local licensing authorities at all times during business hours.

SECTION 16. In Colorado Revised Statutes, 44-3-417, **amend** (1)(b), (2)(a) introductory portion, (2)(a)(III), (2)(b), and (3) as follows:

44-3-417. Brew pub license - definition. (1) (b) A brew pub licensed pursuant to this section to manufacture malt liquors ~~or fermented malt beverages~~ upon its licensed premises may, upon approval of the state

licensing authority, manufacture malt liquors ~~or fermented malt beverages~~ upon alternating proprietor licensed premises within the restrictions specified in section 44-3-103 (5).

(2) (a) Except as provided in subsection (2)(b) of this section, during the hours established in section 44-3-901 (6)(b), malt liquors ~~or fermented malt beverages~~ manufactured by a brew pub licensee on the licensed premises or alternating proprietor licensed premises may be:

(III) Sold to the public in sealed containers for off-premises consumption. Only malt liquors ~~or fermented malt beverages~~ manufactured and packaged on the licensed premises or alternating proprietor licensed premises by the licensee shall be sold in sealed containers.

(b) A brew pub authorized to manufacture malt liquors ~~or fermented malt beverages~~ upon alternating proprietor licensed premises shall not conduct retail sales of malt liquors ~~or fermented malt beverages~~ from an area licensed or defined as an alternating proprietor licensed premises.

(3) (a) Every person selling alcohol beverages pursuant to this section shall purchase alcohol beverages, other than those that are manufactured at the licensed brew pub, from a wholesaler licensed pursuant to this article 3; ~~or article 4 of this title 44;~~ except that, during a calendar year, a person selling alcohol beverages as provided in this section may purchase not more than two thousand dollars' worth of

~~(F) malt, vinous, and spirituous liquors from a retailer~~ RETAILERS licensed pursuant to ~~section~~ SECTIONS 44-3-409, ~~or~~ 44-3-410, and

~~(H) Fermented malt beverages from a retailer licensed pursuant to section~~ 44-4-104 (1)(c).

(b) The brew pub licensee shall retain evidence of each purchase of malt, vinous, and spirituous liquors from a retailer licensed pursuant to section 44-3-409, ~~or~~ 44-3-410, ~~and each purchase of fermented malt beverages from a retailer licensed pursuant to section~~ OR 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The licensee shall retain the receipt and make it available to state and local licensing authorities at all times

during business hours.

SECTION 17. In Colorado Revised Statutes, 44-3-418, **amend** (2) as follows:

44-3-418. Club license - legislative declaration. (2) (a) Every person selling alcohol beverages as provided in this section shall purchase the alcohol beverages only from a wholesaler licensed pursuant to this article 3; ~~or article 4 of this title 44;~~ except that, during a calendar year, a person selling alcohol beverages as provided in this section may purchase not more than two thousand dollars' worth of

~~(F) malt, vinous, and spirituous liquors from a retailer~~ RETAILERS licensed pursuant to ~~section~~ SECTIONS 44-3-409, ~~or~~ 44-3-410, and

~~(H) Fermented malt beverages from a retailer licensed pursuant to section~~ 44-4-104 (1)(c).

(b) The club licensee shall retain evidence of each purchase of malt, vinous, or spirituous liquors from a retailer licensed pursuant to section 44-3-409, ~~or~~ 44-3-410, and ~~each purchase of fermented malt beverages from a retailer licensed pursuant to section~~ OR 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The licensee shall retain the receipt and make it available to the state and local licensing authorities at all times during business hours.

SECTION 18. In Colorado Revised Statutes, 44-3-419, **amend** (4) as follows:

44-3-419. Arts license - definition. (4) (a) Every person selling alcohol beverages as provided in this section shall purchase the alcohol beverages only from a wholesaler licensed pursuant to this article 3; ~~or article 4 of this title 44;~~ except that, during a calendar year, a person selling alcohol beverages as provided in this section may purchase not more than two thousand dollars' worth of

~~(F) malt, vinous, and spirituous liquors from a retailer~~ RETAILERS licensed pursuant to ~~section~~ SECTIONS 44-3-409, ~~or~~ 44-3-410, and

~~(H) Fermented malt beverages from a retailer licensed pursuant to section 44-4-104 (1)(c).~~

(b) An arts licensee shall retain evidence of each purchase of malt, vinous, or spirituous liquors from a retailer licensed pursuant to section 44-3-409, or 44-3-410, ~~and each purchase of fermented malt beverages from a retailer licensed pursuant to section~~ OR 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The licensee shall retain the receipt and make it available to the state and local licensing authorities at all times during business hours.

SECTION 19. In Colorado Revised Statutes, 44-3-420, **amend** (2) as follows:

44-3-420. Racetrack license. (2) (a) Every person selling alcohol beverages as provided in this section shall purchase the alcohol beverages only from a wholesaler licensed pursuant to this article 3; ~~or article 4 of this title 44;~~ except that, during a calendar year, a person selling alcohol beverages as provided in this section may purchase not more than two thousand dollars' worth of

~~(F) malt, vinous, and spirituous liquors from a retailer~~ RETAILERS licensed pursuant to ~~section~~ SECTIONS 44-3-409, or 44-3-410, and

~~(H) Fermented malt beverages from a retailer licensed pursuant to section 44-4-104 (1)(c).~~

(b) A racetrack licensee shall retain evidence of each purchase of malt, vinous, or spirituous liquors from a retailer licensed pursuant to section 44-3-409, or 44-3-410, ~~and each purchase of fermented malt beverages from a retailer licensed pursuant to section~~ OR 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The licensee shall retain the receipt and make it available to the state and local licensing authorities at all times during business hours.

SECTION 20. In Colorado Revised Statutes, 44-3-422, **amend** (3)

as follows:

44-3-422. Vintner's restaurant license. (3) (a) Every person selling alcohol beverages pursuant to this section shall purchase the alcohol beverages, other than those that are manufactured at the licensed vintner's restaurant, from a wholesaler licensed pursuant to this article 3; ~~or article 4 of this title 44;~~ except that, during a calendar year, a person may purchase not more than two thousand dollars' worth of

~~(F)~~ malt, vinous, and spirituous liquors from ~~a retailer~~ RETAILERS licensed pursuant to ~~section~~ SECTIONS 44-3-409, ~~or~~ 44-3-410, and

~~(H)~~ Fermented malt beverages from a retailer licensed pursuant to ~~section~~ 44-4-104 (1)(c).

(b) The vintner's restaurant licensee shall retain evidence of each purchase of malt, vinous, and spirituous liquors from a retailer licensed pursuant to section 44-3-409, ~~or~~ 44-3-410, ~~and each purchase of fermented malt beverages from a retailer licensed pursuant to section~~ OR 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The licensee shall retain the receipt and make it available to state and local licensing authorities at all times during business hours.

SECTION 21. In Colorado Revised Statutes, 44-3-426, **amend** (4) as follows:

44-3-426. Distillery pub license - legislative declaration - definition. (4) (a) Except as provided in subsection (4)(b) of this section, every person selling alcohol beverages pursuant to this section must purchase alcohol beverages, other than those that are fermented and distilled at the licensed distillery pub, from a wholesaler licensed pursuant to this article 3. ~~or article 4 of this title 44.~~

(b) (I) During a calendar year, a person selling alcohol beverages as provided in this section may purchase not more than two thousand dollars' worth of

~~(A)~~ malt, vinous, and spirituous liquors from ~~a retailer~~ RETAILERS

licensed pursuant to ~~section~~ SECTIONS 44-3-409, ~~or~~ 44-3-410, and

~~(B) Fermented malt beverages from a retailer licensed pursuant to section 44-4-104 (1)(c).~~

(II) The distillery pub licensee shall retain evidence of each purchase of malt, vinous, and spirituous liquors from a retailer licensed pursuant to section 44-3-409, ~~or~~ 44-3-410, ~~and each purchase of fermented malt beverages from a retailer licensed pursuant to section~~ OR 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The licensee shall retain the receipt and make it available to state and local licensing authorities at all times during business hours.

SECTION 22. In Colorado Revised Statutes, 44-3-428, **amend** (2) as follows:

44-3-428. Lodging and entertainment license. (2) (a) A lodging and entertainment facility licensed to sell alcohol beverages as provided in this section shall purchase alcohol beverages only from a wholesaler licensed pursuant to this article 3; ~~or article 4 of this title 44;~~ except that, during a calendar year, a lodging and entertainment facility licensed to sell alcohol beverages as provided in this section may purchase not more than two thousand dollars' worth of

~~(F) malt, vinous, and spirituous liquors from a retailer~~ RETAILERS licensed pursuant to ~~section~~ SECTIONS 44-3-409, ~~or~~ 44-3-410, and

~~(H) Fermented malt beverages from a retailer licensed pursuant to section 44-4-104 (1)(c).~~

(b) A lodging and entertainment facility licensee shall retain evidence of each purchase of malt, vinous, or spirituous liquors from a retailer licensed pursuant to section 44-3-409, ~~or~~ 44-3-410, ~~and each purchase of fermented malt beverages from a retailer licensed pursuant to section~~ OR 44-4-104 (1)(c), in the form of a purchase receipt showing the name of the licensed retailer, the date of purchase, a description of the alcohol beverages purchased, and the price paid for the alcohol beverages. The lodging and entertainment facility licensee shall retain the receipt and

make it available to the state and local licensing authorities at all times during business hours.

SECTION 23. In Colorado Revised Statutes, 44-3-501, **amend** (3)(a)(V) as follows:

44-3-501. State fees. (3) (a) The state licensing authority shall establish fees for processing the following types of applications, notices, or reports required to be submitted to the state licensing authority:

(V) Applications for alternating use of premises pursuant to section 44-3-402 (3), 44-3-403 (2)(a), OR 44-3-417 (1)(b) ~~or 44-4-104 (1)(a)~~; and rules adopted pursuant to those sections;

SECTION 24. In Colorado Revised Statutes, 44-3-503, **amend** (1)(a) and (4)(g) as follows:

44-3-503. Excise tax - records - rules - definition. (1) (a) An excise tax at the rate of 8.0 cents per gallon, or the same per unit volume tax applied to metric measure, on all malt liquors ~~fermented malt beverages~~, and hard cider, 7.33 cents per liter on all vinous liquors except hard cider, and 60.26 cents per liter on all spirituous liquors is imposed, and the taxes shall be collected on all such respective beverages, not otherwise exempt from the tax, sold, offered for sale, or used in this state; except that, upon the same beverages, only one such tax shall be paid in this state. The manufacturer, thereof, the holder of a winery direct shipper's permit, or the first licensee receiving alcohol beverages in this state if shipped from without the state, shall be primarily liable for the payment of any tax or tax surcharge imposed pursuant to this section; but, if the beverage is transported by a manufacturer or wholesaler to a point outside of the state and disposed of there, then the manufacturer or wholesaler, upon the filing with the state licensing authority of a duplicate bill of lading, invoice, or affidavit showing such transaction, shall not be subject to the tax provided in this section on such beverages, and, if such tax has already been paid, it shall be refunded to said manufacturer or wholesaler. For purposes of this section, "manufacturer" includes brew pub, distillery pub, and vintner's restaurant licensees.

(4) Each licensed manufacturer and wholesaler of alcohol beverages within this state shall file, on or before the twentieth day of each month, an

exact, verified return with the state licensing authority showing for the preceding calendar month the quantities of alcohol beverages:

(g) For persons licensed pursuant to section 44-3-402 (3), 44-3-403 (2)(a), OR 44-3-417 (1)(b), ~~or 44-4-104 (1)(a)~~, a separate report of vinous liquors, OR malt liquors, ~~or fermented malt beverages~~, as applicable, that were manufactured or inventoried in, or transferred from, an alternating proprietor licensed premises.

SECTION 25. In Colorado Revised Statutes, 44-3-901, **amend** (1)(i)(I) introductory portion, (1)(i)(I)(A), (1)(i)(VII), (3), (5) introductory portion, (5)(b), and (7) as follows:

44-3-901. Unlawful acts - exceptions - definitions - repeal.

(1) Except as provided in section 18-13-122, it is unlawful for any person:

(i) (I) To consume any ~~fermented malt beverage or malt, vinous, or spirituous liquor~~ ALCOHOL BEVERAGES:

(A) In any public place except on any licensed premises permitted under this article 3 or article 4 of this title 44 to sell any ~~fermented malt beverages or malt, vinous, or spirituous liquors~~ ALCOHOL BEVERAGES by the drink for consumption on the licensed premises;

(VII) Notwithstanding subsection (1)(i)(I) of this section, it is not unlawful for a person who is at least twenty-one years of age to consume any ~~fermented malt beverage or malt, vinous, or spirituous liquor~~ ALCOHOL BEVERAGES in any public place, other than a public right of way, where consumption of ~~the fermented malt beverage or malt, vinous, or spirituous liquor~~ ALCOHOL BEVERAGES has been specifically authorized by ordinance, resolution, or rule adopted by a municipality, city and county, or county or, for purposes of state parks, state wildlife areas, or other properties open to recreation that are under the supervision of the parks and wildlife commission created in article 9 of title 33, by the parks and wildlife commission.

(3) It is unlawful for any person licensed as a manufacturer, limited winery, brew pub, or distillery pub pursuant to this article 3 ~~or article 4 of this title 44~~ to manufacture alcohol beverages in any location other than the permanent location specifically designated in the license for manufacturing,

except as allowed pursuant to section 44-3-402 (3), 44-3-403 (2)(a), OR 44-3-417 (1)(b). ~~or 44-4-104 (1)(a):~~

(5) It is unlawful for any person licensed to sell at wholesale pursuant to this article 3: ~~or article 4 of this title 44:~~

(b) To deliver ~~fermented malt beverages~~ or malt liquors to any retail licensee located outside the geographic territory designated on the license application filed with the state licensing authority if the person holds a wholesaler's beer license;

(7) It is unlawful for any importer, manufacturer, or brewer to sell or to bring into this state for purposes of sale any ~~fermented malt beverage~~ ~~or any~~ malt liquor without causing the same to be unloaded and placed in the physical possession of a licensed wholesaler at the wholesaler's licensed premises in this state and to be inventoried for purposes of tax collection prior to delivery to a retailer or consumer.

SECTION 26. In Colorado Revised Statutes, 44-4-105, **amend** (1)(a) as follows:

44-4-105. Fees and taxes - allocation. (1) (a) The state licensing authority shall establish fees for processing the following types of applications, notices, or reports required to be submitted to the state licensing authority: Applications for new fermented malt beverage licenses pursuant to section 44-3-301 and rules thereunder; applications for change of location pursuant to section 44-3-301 and rules thereunder; applications for changing, altering, or modifying licensed premises pursuant to section 44-3-301 and rules thereunder; ~~applications for warehouse or branch house permits pursuant to section 44-4-104 and rules thereunder;~~ applications for duplicate licenses; and notices of change of name or trade name pursuant to section 44-3-301 and rules thereunder. The amounts of such fees, when added to the other fees and taxes transferred to the liquor enforcement division and state licensing authority cash fund pursuant to subsection (2) of this section and section 44-3-502 (1), shall reflect the direct and indirect costs of the liquor enforcement division and the state licensing authority in the administration and enforcement of this article 4 and articles 3 and 5 of this title 44. At least annually, the amounts of the fees shall be reviewed and, if necessary, adjusted to reflect such direct and indirect costs.

SECTION 27. In Colorado Revised Statutes, 44-4-107, **amend** (5) as follows:

44-4-107. Local licensing authority - application - fees - definition - rules - repeal. (5) A person licensed under subsection (1)(a) of this section that holds multiple fermented malt beverage retailer's licenses for multiple licensed premises may operate under a single or consolidated corporate entity but shall not commingle purchases of or credit extensions for purchases of ~~fermented malt beverages~~ ALCOHOL BEVERAGE PRODUCT from a wholesaler licensed under ~~this article 4~~ or article 3 of this title 44 for more than one licensed premises. A wholesaler licensed under ~~this article 4~~ or article 3 of this title 44 shall not base the price for the ~~fermented malt beverages~~ ALCOHOL BEVERAGE PRODUCT it sells to a fermented malt beverage retailer licensed under subsection (1)(a) of this section on the total volume of ~~fermented malt beverages~~ ALCOHOL BEVERAGE PRODUCT that the retailer purchases for multiple licensed premises.

SECTION 28. In Colorado Revised Statutes, **repeal** 44-4-108 as follows:

44-4-108. Exemption. ~~This article 4 does not apply to a state institution of higher education when the institution is engaged in the manufacture and tasting, at the place of manufacture or at a licensed premises, of fermented malt beverages for teaching or research purposes, so long as the fermented malt beverages are not sold or offered for sale and are only tasted by a qualified employee, qualified student, or expert taster. Any unused fermented malt beverage product that is produced by a state institution of higher education in accordance with this section must be removed from a licensed premises at the end of an event if the event is held at a licensed premises located off campus.~~

SECTION 29. Applicability. This act applies to conduct occurring on or after the effective date of this act.

SECTION 30. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Leroy M. Garcia
PRESIDENT OF
THE SENATE

KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO